



State of Delaware
Public Service Commission
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MEMORANDUM

TO: The Chairman and Members of the Commission

FROM: Lisa B. Driggins, Public Utility Analyst

A handwritten signature in blue ink, appearing to read "LBD", enclosed in a hand-drawn oval.

DATE: December 29, 2021

SUBJECT: IN THE MATTER OF THE APPLICATION OF ARTESIAN WASTEWATER MANAGEMENT, INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE WASTEWATER SERVICE PURSUANT TO 26 DEL. C. §203D. ("PRETTYMAN25.00, ROXANA60.00, ROXANA91.00, ZION22.00, ZION76.02")
(FILED OCTOBER 14, 2021) - PSC DOCKET NO. 21-0851

On October 14, 2021, Artesian Wastewater Management, Inc. ("AWMI" or the "Company") filed an application ("Application") with the Delaware Public Service Commission ("Commission") pursuant to 26 *Del. C.* § 203D(d)(2) seeking a Certificate of Public Convenience and Necessity ("CPCN") to provide wastewater service to eight (8) parcels of land in Sussex County, Delaware, identified as Tax Map Parcel Nos. 235-29.00-25.00, 533-6.00-60.00, 533,6.00-91.00, 533-6.00-91.01, 533-6.00-91.02, 533-11.00-22.00, 533-11.00-76.02, and 533-11.00-76.05, and referred to as "Prettyman25.00, Roxana60.00, Roxana91.00, Zion22.00, and Zion6.02" (the "Proposed Service Area").

As required under 26 *Del. C.* § 203D and the Commission's *Regulations Governing Certificates of Public Convenience and Necessity to Provide Wastewater Services*, 26 *Del. Admin. C.* § 6001 (the "Regulations"), AWMI included the following documentation in its Application: (1) copies of petitions requesting wastewater services signed by all landowners of record of each parcel or property encompassed within the Proposed Service Area; (2) copies of the United States Postal Service forms verifying that the Company sent, via certified mail, a Commission-approved notice to all landowners of record of each parcel included in the Proposed Service Area; (3) a list of the County tax map parcel identification numbers of the properties and identification of all landowners of record included in the Proposed Service Area; (4) a copy of the associated map clearly marking the Proposed Service Area; and (5) a copy of the letter from Sussex County stating

no objection to the Application.¹ Staff found no errors or omissions during its review of the Application.

As required by the Regulations, AWMI provided copies of the Application to the Division of Water Resources of the Department of Natural Resources and Environmental Control (“DNREC”), the Delaware Office of State Planning Coordination (“OSP”), and the Sussex County Engineering Department (the “County”). In addition, Staff requested written comments September 8, 2021, from DNREC, OSP and the County regarding the Proposed Service Area.

DNREC did not respond by the deadline provided, which, based on prior communications, indicates no objection to the Application.

OSP responded that it has no outstanding issues with AWMI regarding its service. OSP also noted parcel No. 235-29.00-25.00 is located within Investment Level 4 according to the 2020 Strategies for State Policies and Spending document. Investment Level 4 indicates where State investments will support agricultural preservation, natural resource protection, and the continuation of the rural nature of these areas. New development activities and suburban development are not supported in Investment Level 4 areas. OSP also noted that Parcels 533-6.00-60.00, 533,6.00-91.00, 533-6.00-91.01, 533-6.00-91.02, 533-11.00-22.00, 533-11.00-76.02, and 533-11.00-76.05 are located in an Investment Level 3 area, which reflects areas where growth is anticipated by local, county, and state plans in the longer-term future, or areas that may have environmental or other constraints to development. OSP advised that, while State investments may support future growth in these areas, the State has other priorities for the near future.

OSP further stated they reviewed parcel 235-29.00-25.00 thru the PLUS 2021-0503 as a site plan for 100 units subdivision. Because of the location in a Level 4 investment area, OSP is opposed to this project and would not support a CPCN on this parcel that would accommodate growth in this area. On December 6, 2021, Staff responded to OSP stating upon review of the applicable statutes and regulations, Staff believes that AWMI meets the statutory requirements for CPCN issuance and will recommend Commission approval. Staff advised OSP, however, that if it wishes to be heard concerning the opposition memorialized in its Letter, OSP should file a Petition to Intervene which, if filed, will be placed on the Commission’s Regular Agenda and be heard in conjunction with AWMI’s CPCN application.

As of the date of this memorandum, OSP has not petitioned for intervention.

The Application included letters from the County, stating the County received and reviewed the Application and had no objection regarding AWMI’s providing wastewater services to the Proposed Service Area. The letter states that Parcel No. 235-29.00-25.00 is in the County’s

¹As required by the Regulations, an applicant that proposes to extend services into the service territory of a municipality, government agency, or wastewater authority must provide written documentation that such entity has been informed of and has approved the applicant’s proposed expansion. *See 26 Del. Admin. C. § 6001-3.4.*

Tier 3 Coordinated CPCN area, which requires coordination between the County and the private wastewater utilities. Regarding 533-6.00-60.00, 533-6.00-91.00, 533-6.00-91.01, 533-6.00-91.02, and 533-11.00-22.00, the County stated that the Proposed Service Area is primarily in the County's Tier 4 System Optional Area. Furthermore, Sussex County also states Parcel Nos. 533-11.00-76.02 and 533-11.00-76.03 are in a Tier 4 area, with some portions extending into the County's Tier 2 area. The County noted that, with the majority of the land associated with those few parcels in Tier 4, the County will agree to service by AWM. The Tier 4 is designated as a System Optional area for sewer service.

In conclusion, AWM's Application complies with statutory and regulatory requirements of 26 *Del. C.* § 203D and 26 *Del. Admin. C.* § 6001. Therefore, consistent with statutory requirements, Staff recommends the Commission approve the Application.